

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

HOUSING COURT DEPARTMENT
OF THE TRIAL COURT
NORTHEASTERN DIVISION
DOCKET No. 20H77CV000079

JENNY CRISCUOLO and ANTHONY CRISCUOLO,
Plaintiffs,

vs.

DAVID KAGAN and GATEY KAGAN,
Defendants.

ORDER FOR INJUNCTIVE RELIEF

This matter comes before the Court for hearing on an application for preliminary injunction (Doc. No. 3). After hearing (conducted telephonically per Housing Court Standing Order 5-20 and the Supreme Judicial Court Second Updated Order Regarding Court Operations effective as of June 1, 2020) on June 17th, 2020, and upon review of the papers filed in this case, the Court enters the following Preliminary Injunction:

1. Upon finding that: (a) the underlying civil action is not a non-essential eviction as defined in Chapter 65 of the Acts of 2020; (b) Plaintiffs have shown that irreparable harm or damage may occur unless the Court grants the injunctive relief granted herein; (c) Plaintiffs are likely to succeed on the merits of their claim for constructive eviction (Count IV of the Verified Complaint); and (d) the balance of the equities favors Plaintiffs, this Order is granted pursuant to Mass. R. Civ. P. 65(b) and pursuant to this Court's equitable powers, G.L. c. 185C, § 3.

2. The Court hereby ORDERS the Defendants DAVID KAGAN and GATEY KAGAN to restore Plaintiffs JENNY CRISCUOLO and ANTHONY CRISCUOLO to possession of the premises known as the Carriage House at 588 Bay Road, South Hamilton, Massachusetts ("Premises") or, in the alternative in the event the Premises are not fit for human habitation, to provide alternative housing to Plaintiffs until such time as Plaintiffs have secured alternative housing.

3. Without ruling whether Plaintiffs are Defendants' tenants or licensees (an issue to be determined at trial), see, e.g. *Grant v. Detroit Ass'n of Women's Clubs*, 505 N.W.2d 254 (Mich. 1993) (discussion of creation of landlord-tenant relation in the context of housing provided to employees), the Court rules that Defendants may regain possession of the Premises but only through the use of judicial process suitable to the terminations of a tenancy or a mere license, as the case may be. Therefore, the Court hereby ENJOINS and PROHIBITS the Defendants DAVID KAGAN and GATEY KAGAN from regaining possession of the Premises without the benefit of legal process.

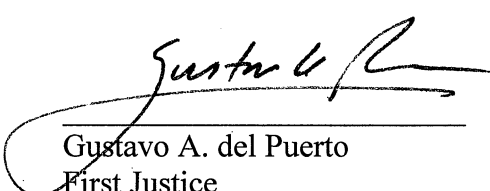
4. Defendants are ORDERED to (a) clean and (b) restore to Defendants' possession any and all Defendants' personalty in Plaintiffs' personalty, forthwith. The Court urges parties' counsel to cooperate in the transfer of the personalty covered under this Paragraph.

5. The Court denies any other injunctive relief at this time, as the Plaintiffs have not demonstrated that they will suffer irreparable harm unless the Court grants the requested injunction. The Court refers this case to the Housing Specialist Department for mediation.

6. The Plaintiffs, for good cause, is not required to post bond or any other form of security pursuant to Mass. R. Civ. P. 65(c); the Plaintiffs shall be assessed the \$90.00 injunction fee.

7. This Order shall take immediate effect; Defendants' obligation to provide alternative housing shall cease once Plaintiffs have secured alternative housing but shall otherwise continue until such time as Defendants exercise legal process to gain possession of the Premises.

Dated: June 17, 2020



Gustavo A. del Puerto
First Justice